



MINUTES

COMMUNITY POLICE REVIEW COMMISSION

City of Riverside

May 23, 2001, 6 p.m.

Mayor's Ceremonial Room

Present: Commissioners Brewer, Egson, Garcia, Gardner, Goldware, Hendrick, Howe, and Redsecker

Absent: Commissioner Huerta

Chairperson Howe called the meeting to order at 6:04 p.m.

Motion was made by Vice-Chair Brewer and seconded by Commissioner Hendrick to approve the minutes for the April 2001 monthly meeting. Motion was made by Commissioner Gardner and seconded by Commissioner Hendrick to approve the minutes of the May 17, 2001 special meeting.

Both motions passed unanimously.

EXECUTIVE DIRECTOR'S REPORT / COMMENTS

Executive Director Williams

- announced the publication of the findings from the closed session in April.
- informed the commissioners that cases received since the beginning of the year now totaled 75.

Admin. Clerk Sherron advised the Commission of two dates on which the next special meeting could be held. After discussion and without formal motion, the Commission chose June 11 for the next special meeting.

PUBLIC COMMENTS

Mary Shelton

I'll begin with the following quote, "We have a responsibility to the public to adequately review any and all complaints that come into our Department, and we are going to meet that responsibility." The words make sense. They are great words if stated with sincerity. These words were spoken eight years ago by then head of Internal Affairs Audrey Wilson, who unfortunately seemed to have forgotten them by this time last year when she assigned Lt. Ron Orantia to investigate four officers in a complaint, including himself. This was not a mistake or act of carelessness when action initiated by an experienced officer, and aided and abetted in a sense by at least two experienced officers. It's still very difficult for me to believe that it was a mistake or an oversight, especially since these individuals were alerted to what was going on and they still allowed Orantia to remain on the complaint to completion as its investigator, even while making promises to alleviate the situation. I think that reviewing Policy 4.12 is an important process as it is lacking in terms of dealing with conflict of interest issues, including officers who are assigned to investigate themselves or even officers who are assigned to investigate blood or legal relatives, if that occurs. The loophole in this policy that allowed an officer to be exonerated for what common sense will tell you is simply bad conduct needs to be sewn up in writing. However, while reviewing and perhaps revising Policy 4.12 is necessary, it can only have limited value if the policy's provisions continue to be ignored by those who conduct the investigations. In the complaints that I filed there were quite a few violations according to the latest draft of 4.12. There was a failure to interview any civilian witnesses, even though the policy's provision D6 clearly states that all witnesses are to be interviewed. A failure to investigate all the

allegations in my investigation out of 12, there were findings for none of them, only some vague language about the complaint in general. Also, there was a failure to list the findings and the definitions of the findings in the final letter in the court's report, 12 C8. All these policy violations constitute poor service in my mind. Perhaps my standards are different, but it seems to me that it's just not doing an adequate investigation. Timeliness is also an important issue. My complaint sat for five months before a single witness was called. Then, when my witness refused to be investigated by the individual who was involved in the police action and defended it in the press, he was told to acquiesce because the investigation had dragged out too long in violation of policy and provision D5, which states that the 90 day period for Category 1 complaints is to be abided to, but not at the expense of the thoroughness of the investigation. And there has to be some sort of balance found between the integrity of the investigation and the duration that's fair to both sides. These issues that rose from my experience have concerned me greatly about a Department which has failed in many ways to follow the rules it sets up in terms of investigations.

COMMISSIONER REDSECKER - Did officer Wilson ever schedule a meeting with you after the first meeting you had?

MS. SHELTON – Never. Never.

COMMISSIONER REDSECKER – It was my understanding from listening to that tape that she was going to schedule a meeting. Did you ever follow-up on that, Don? I think it's important that you do that.

EXEC. DIR. WILLIAMS – Well, I'll double-check it. I didn't check it at the time.

COMMISSIONER REDSECKER – That's the best feedback I think we can give you right at this point.

Chani Beeman

Actually, I have two questions. One is with regard to special meetings in the Policies & Procedures or By-laws, whichever those are. It defines special meetings as coming under the Brown Act and being open public meetings. I don't recall a notification that the meeting on May 17th was occurring and you've all just scheduled one for June. What's the notification process for that? Normally I get agendas for these meetings, and I'd like to find out because we want to be here. But special meetings, if they're being called... If we get agendas for regular meetings, that's wonderful. If we aren't also getting them for special meetings, I need to come up with a different strategy.

EXEC. DIR. WILLIAMS – As far as I know, we just do what we normally do.

MS. SHERRON, ADMIN CLERK – You should have received it. They're sent the same way all the other agendas are.

CHAIRPERSON HOWE – At our last meeting, the special meeting, Mary Shelton was there.

MS. BEEMAN – Usually I depend on getting notification on them from Phoebe. If its going to be different, I can do as Mary does.

COMMISSIONER BREWER – At the special meeting, we have public comments and go into closed session after that anyway.

MS. BEEMAN – Always? The definition of special meeting says its open to the Brown Act, but all you're doing is going into closed session.

EXEC. DIR. WILLIAMS – The only difference between this meeting and a special meeting is that the special meeting has been called to deal with cases that need to be dealt with, the caseload. We don't want cases sitting on our desks for six weeks.

MS. BEEMAN – In a special meeting there will never be anything other than a review of cases...

EXEC. DIR. WILLIAMS – That's it.

MS. BEEMAN – Okay. That's not clear in the by-laws and procedures.

COMMISSIONER GARDNER – The chair can call a special meeting for a purpose, five commissioners can request the chair to call a special meeting for a purpose. Thus far it has always been to deal with backlogged cases and that's all we know of right now.

COMMISSIONER BREWER – There's notification going out on special meetings for other than backlog... (unintelligible)

MS. BEEMAN – So I can expect to receive the same notification that I get for regular meetings?

COMMISSIONER EGSON – And the change of meetings, the reason we're having it today is because our regular day is a holiday.

MS. BEEMAN – And that was part of the discussion of the regular meeting. I'm just concerned about special meetings. If it's only for case reviews, people aren't going to show up just to watch you go into closed session. So if it's only for case reviews, I'll disregard it, but if there's a possibility that there are other things other than case review, the public should be...

COMMISSIONER REDSECKER – It's not only for case review. If you note on here, the public has a chance to comment before we go into closed session.

MS. BEEMAN – That's a good point. Thank you. The other question I had was the availability of the complaint forms. Early on, I believe there were discussions about making it available via the web and we had occasion about a week and a half ago to look for a complaint form at the police department. What's the status of the CPRC complaint form? Are you using RPD's? RPD has nothing in its lobby. You still have to go to the front window. There's nothing on the web. Is the only way to get it to call here and get it mailed?

EXEC. DIR. WILLIAMS – We have them here. I don't know about RPD. We're having to use them because that whole process is still under revision. I don't know. That's over in their shop. I have no idea how long before that happens. We've been trying to get our stuff on the web for some time and it hasn't happened yet, but we're patiently waiting.

MS. BEEMAN – Is there any chance of just getting a bunch of photocopies...

MS. SHERRON – I could get some for you this evening, but everything's packed...

MS. BEEMAN – The point is, people often don't want to go to the police station and they don't want to go to the window. So if these forms aren't widely available, you're missing stuff is the point. So I understand it takes a while to put things on the web and I understand you're moving. I didn't know where we were in the process. So those are the questions. Thank you.

CHAIRPERSON HOWE – Still speaking on public comments – Art Garcia.

Art Garcia

Would it be appropriate to comment on Item 6 of the agenda as far as public comment?

CHAIRPERSON HOWE – No, it wouldn't be.

MR. GARCIA – Okay, that's what I wanted to speak on, Item 6. At what point would it be appropriate to speak on Number 6?

COMMISSIONER GOLDWARE – It's public comment. You can speak on anything you want.

(unintelligible discussion...)

COMMISSIONER GOLDWARE – It's public comment. He can talk about anything he wants to talk about.

MR. GARCIA – Well, it's Item 6 on the agenda is what I wanted to speak on.

COMMISSIONER GOLDWARE – Speak on it. There were two people who just talked about things they wanted to talk about.

CHAIRPERSON HOWE – But that's not the way its written.

COMMISSIONER GOLDWARE – Well if someone walks in and fills out a form and says they want to talk and they talk about whatever they want to talk about, what difference does it make whether it's on the agenda or not? Did Mary Shelton talk about what's on the agenda today?

COMMISSIONER EGSON – But Number 6 is on the agenda.

(unintelligible discussion...)

COMMISSIONER HENDRICK – Actually, that's not true. Under the Brown Act, he has the right to bring up anything, and he certainly has the right to speak to an item that is on the agenda. The question is does he speak now or does he speak when we get to Item 6. That's his choice.

MR. GARCIA - And that's my question. I don't see a place on the agenda for me to speak on Item 6.

COMMISSIONER REDSECKER – I think it would be more appropriate to let him speak now ...

MS. BEEMAN – As a procedural thing, because I speak to Item 6, it appears by the agenda that you aren't going to open that for discussion and... So if you are, it needs to be open for everyone or I want to go back to public comment and talk about Item 6 if that's the only place we get to talk about it.

COMMISSIONER HENDRICK – The commission's meeting in public. We're not going to have a dialog with you about items on our agenda. Speak to an item now, or you can speak to that item when we get there, but we're not going to have a discussion with you on that item.

MS. BEEMAN – The procedures that you've set up say that public comment is only for items not on the agenda, okay? And so, knowing that, you get to speak to Item 6. So, make a decision about whether or not we get to speak about stuff on the agenda or not. But your rules currently say we can't speak to items on the agenda.

EXEC. DIR. WILLIAMS – The way that we've done it in the past is if it's an agenda item, it makes sense, there's a little more organization there. When the agenda item comes up, then speak to that agenda item. If it's a comment that you want to make about something that's not on the agenda, then

this is where the public comments come in. This is the way we've done it. There's a little more organization that way. It helps when you're writing minutes and this type of thing just to have to refer back to these things. I don't know that it's hard and fast, but it just makes a little more sense that way.

MR. GARCIA – I'll wait till 6 comes up. If I can have an opportunity to speak when 6 comes up, then I'll do so.

COMMISSIONER HENDRICK – I think it's important to note that when we get to 6, if there are people who want to address the item, they can address it. Then we're going to close the comment and we're going to discuss it and at that point we're not in dialog.

EXEC. DIR. WILLIAMS – Exactly. This is a chance for the public to come in and say their deal.

CHAIRPERSON HOWE – Okay. No other speakers for Item #4, so we'll move to Item #5.

Public Comments on Drafts of CPRC By-Laws and Policies & Procedures dated May 9, 2001 and Commission vote to adopt those By-Laws and Policies & Procedures.

EXEC. DIR. WILLIAMS – Mr. Chairman, can I go through a few corrections that we've had to make since we published this thing? Let's do that, that may solve some problems, some questions out there.

Mr. Williams noted the following corrections in the proposed Policies & Procedures:

VII-B – Only complaints of sworn police employee misconduct made in writing will be subject to review by the Commission.

VII-C – Only complaints filed on or after January 1, 2001, and within six months of the date of the alleged sworn police employee misconduct will be investigated by the Commission.

EXEC. DIR. WILLIAMS – The next one is one that I've personally had a little problem with and I'll give you the long explanation. This is on the next page, 5 of 9, Section VIII, Investigations, A – Investigations. When it was first written, it was pointed out to me that some people were construing this as, or could be read, that the Department reacts to us, that we are the ones that directs the Department's activities as far as investigations. So if there's that much confusion, I wanted to make it clear, and I tried to clarify it and I'm not satisfied that I did that. The idea that I'm trying to get over here, or that I'd like to see expressed here, is that the Police Department & CPRC both investigate it separate. We're not bound by them as far as our own investigations nor are they bound by us. While most of the time we're going to use Internal Affairs as the initial investigator, I don't want to limit the Commission's ability to do its own investigation without approval of the Police Department. I think we have that right under the ordinance. So I've asked for a couple of suggestions. Mike has offered – I think you all have his suggestion here – he offered to suggest a substitute.

In reviewing citizen complaints the Internal Affairs Unit of the Riverside Police Department, or their designee, will conduct all initial investigations.

Investigations initiated by the Commission will be conducted by the Executive Director or the Executive Director's designee. Assistance will be sought from the Internal Affairs Unit as appropriate in the judgment of the Executive Director.

COMMISSIONER GOLDWARE – First of all, this is the CPRC's Policies & Procedures, so we shouldn't even be discussing what the Internal Affairs Division does vis-à-vis, an investigation. It doesn't matter what they do, the Police Department. It's my view that we shouldn't be discussing an

investigation, what the Police Department does. So we should refrain from discussing that and just say the CPRC's investigation – which is our Policies & Procedures – are whatever the language is that we arrive at, whether it's Mike's second paragraph, and not even discuss what Internal Affairs does. Internal Affairs has nothing to do with our Policies & Procedures, so why talk about it?

COMMISSIONER HENDRICK – I would just suggest that in that second paragraph, I think the paragraph on its own is fine. I would change “assistance will be” to “may be”, because that gives us some latitude.

EXEC. DIR. WILLIAMS – Anyone else have some suggestions, comments?

COMMISSIONER GOLDWARE – So you're suggesting that the second paragraph that Mike's come up with go under 8-A in its entirety?

COMMISSIONER GARDNER – In lieu of what's there now.

COMMISSIONER GOLDWARE – All of 8-A that's there now would go away and the second paragraph where it begins “investigations” and the corrections that Bill just suggested “assistance may be”, that paragraph would go in, that's what we're talking about?

EXEC. DIR. WILLIAMS – That's my understanding.

COMMISSIONER GARDNER – That's a suggestion.

COMMISSIONER GOLDWARE – The only thing I would change is “initiated”. I'd just say “investigations by the Commission...”

EXEC. DIR. WILLIAMS – Yeah. So we're saying that it should read “Investigations by the Commission will be conducted by the Executive Director or the Executive Director's designee. Assistance may be sought from the Internal Affairs Unit as appropriate in the judgment of the Executive Director.” We'll make the revisions and get them out to everybody, including the public.

COMMISSIONER GOLDWARE – One other thing that you might want to do is use the same language at the end of the sentence that you did in the first sentence. Be consistent with the first sentence.

EXEC. DIR. WILLIAMS – Reread the entire item. Mike, would you sort of... Mike has another suggestion.

COMMISSIONER GARDNER – VIII-C, the second sentence of that where it talks about the synopsis that Don sends out, the second sentence presently reads “This synopsis...” Drop the word “regularly.”

EXEC. DIR. WILLIAMS – Nothing else in the Policies and Procedures. If anyone has anything else. First correction in By-laws, pg 4 of 12, V-5, Commissioner Hendrick's question of “Why not? Should be up to the Commission.”

COMMISSIONER HENDRICK – That was my point. There may be a situation where a particular person is serving as chair and we're very happy with their performance. Why would we have to kick a person out if we wanted them to continue, so why lock ourselves in? There's no reason to.

CHAIRPERSON HOWE – Originally this was taken from another city's by-laws.

COMMISSIONER GARCIA – I think all boards and commissions follow that.

COMMISSIONER GOLDWARE – Every year you're going to look at the position and vote on the position?

COMMISSIONER HENDRICK – It's up to the Commission.

COMMISSIONER BREWER – I think the purpose of this – and a lot of commissions have that – is that one person doesn't become too strong.

COMMISSIONER GOLDWARE – Well it's up to the Commission to decide whether he's too strong.

CHAIRPERSON HOWE – I prefer to leave it the way it is. Let everybody get a shot at it.

COMMISSIONER GOLDWARE – Yeah but they would have a shot at it. It doesn't preclude anybody from being elected after the first year. What this simply says is that a person couldn't do it as opposed to may do it.

COMMISSIONER HENDRICK – There may be a time for a specific reason that we want to continue with the same person.

COMMISSIONER GOLDWARE – What if we like the job you're doing and we want to have you three years in a row and this says we can't?

CHAIRPERSON HOWE – I wouldn't want three years in a row.

COMMISSIONER HENDRICK – At that time, it may be good and pertinent for the Commission to do so. I'm thinking in terms of the school board. The board president has been president for a number of years.

COMMISSIONER GOLDWARE - What you're saying is you're taking away the prerogative from the commissioners to elect their leadership, you're forcing them to do something they may not want to do as opposed to giving them the right to do it or not do it.

CHAIRPERSON HOWE – Let's vote on it. Who brought this up?

COMMISSIONER HENDRICK – I did. I recommended that we change 5 to just leave the first sentence and delete the second sentence.

COMMISSIONER GOLDWARE – I 2nd that.

CHAIRPERSON HOWE – Any discussion? Those in favor of the change – 3; those opposing – 5; oppose wins. What's next?

EXEC. DIR. WILLIAMS - Pg 5 of 12 – A & B - delete "To" and capitalize the next word. D - delete "such"; E & F – one says 5 and one says 6. Commissioner Hendrick asked about this. Do you want to make them consistent with each other?

COMMISSIONER GARDNER – Can't do that. That's what the ordinance says. Five is just a simple majority of appointed members. You can have any other number you want.

COMMISSIONER HENDRICK – That's fine. When I read it I thought, "Why are they inconsistent?"

COMMISSIONER GARDNER – That's why, because the ordinance requires a super majority to issue a subpoena, which is a real big deal.

COMMISSIONER GOLDWARE – Need to take “to” out and capitalize the next word.

EXEC. DIR. WILLIAMS – Next page. Make a new “H.” “G” stays as is.

COMMISSIONER GOLDWARE – This doesn’t make sense. “H” says... that language doesn’t make sense. Are we saying that we’re going to provide written reports to the City Manager and Police Chief regarding allegations?

EXEC. DIR. WILLIAMS – What’s generated out of this Commission goes up to the City Manager

COMMISSIONER GOLDWARE - This says “Make findings concerning allegations contained in the filed complaints to the City Manager and the Police Chief.”

EXEC. DIR. WILLIAMS – Submit written findings...go back one step.

COMMISSIONER HENDRICK – “G” could be expanded. My suggestion is that we keep some kind of record of what the testimony is so that if we want to go back and listen to it after we’re done, we can do that.

COMMISSIONER GOLDWARE – That’s the insert you’re talking about? Let’s stay with what’s on the paper and go back to “G.” Are you saying that “H” is now “Submit written findings ...” you want to add this language about the tape recorder? So what’s the language?

EXEC. DIR. WILLIAMS – “Make a record of testimony either by tape recordings or court reporting or both.”

COMMISSIONER GOLDWARE – Adds the above sentence to “G,” “or video recordings.”

COMMISSIONER GARDNER – “Which shall be recorded electronically, by court reporter or both.” When you’re talking about sworn testimony, you need a court reporter.

COMMISSIONER GOLDWARE – So “G” is going to read “Administer oaths to witnesses and to take testimony, which shall be recorded electronically, by court reporter, or both.”

COMMISSIONER REDSECKER – You might want to put in there how long you’re going to keep that.

EXEC. DIR. WILLIAMS – That would be one of those five-year deals. The next item – “I” – delete “To” and capitalize “review.” Same with J, 7 of 12, Section 2, add the number 5 after word five. That’s all. Any other suggestions?

COMMISSIONER REDSECKER – “I” – does that not apply to a police officer?

COMMISSIONER GARDNER – That’s one of the things we’ll be talking about later this evening. That’s a direct quote from the ordinance.

COMMISSIONER REDSECKER – I raise it now because I’m not going to vote on this as approving it until we get the other issue.

(unintelligible discussion)

EXEC. DIR. WILLIAMS – So there won’t be a vote on this document other than to send it back to committee for sprucing up.

CHAIRPERSON HOWE – And, just to save time, I'm going to ask the committee to take the suggestions that were submitted by Ms. Beeman along with the other corrections.

COMMISSIONER GOLDWARE – Mr. Chairman, may I make a suggestion? We have a committee that's involved in the review of these By-laws and Policies & Procedures. We got some suggestions from (?) as you suggested, in addition to the changes that have already been made tonight. Those changes should be reviewed by the committee, and the committee should come back to the Commission with their recommendations based on that information.

CHAIRPERSON HOWE – Said committee, public comments on Item 5.

Mary Shelton

A couple questions. Submission procedure for Internal Affairs complaints & CPRC complaints is a little bit different because they take them verbally over the phone. How are you going to co-exist or work that out between you? It's easy to divide yourselves apart, but CPRC and Internal Affairs are going to be interlinked. You were discussing two policies that had to do with Internal Affairs tonight. If somebody would call Internal Affairs or Police Department and report something over the phone, would they take a complaint and it would somehow get to the Commission, or would they go to the Commission separately as well? And the other one, I did raise the concern about the one that all initial investigations were going to be done by Internal Affairs. My concern was that in a situation where you have the power to initiate an investigation yourself, in the ordinance by the simple majority, in a case where you decide to initiate something further, I think that should be... That was my concern that that remain in there, that you maintain that, and Mr. Williams told me that it was corrected soon after this draft came out. When is the next version going to be available?

EXEC. DIR. WILLIAMS – The revised version will be available after the committee members make the changes and I believe they would come back and recommend whether or not these written changes, whether they want to add them or not. The Commission will make the changes, before the next time we have a public hearing and I don't know if this is going to be by the June meeting or not, I don't know. It depends on the subcommittee. You'll get notification just like you did this time. Hopefully that will be the last time. Regarding the reporting – whether you file with us or file with the Police Department, we see them all anyhow. If you file with the Police Department, the sergeant who takes the complaint... there is a control number generated at that time. Those control numbers are faxed over to us the next morning and normally, within a couple days, we get the follow-up paperwork. So it makes no difference whether you do it with us or not. Regarding the written complaint, where it says "written", we'll take them over the phone. What we normally do is send the material out to the person and let them fill it out and send it back. We just don't submit it to Police Department until we get that written, signed – or if they chose to sign – at least written complaint.

MS. SHELTON – Are there people that can help people write, that maybe it's not their first language or maybe they have trouble writing?

EXEC. DIR. WILLIAMS – Exactly. The ordinance says it has to be in writing and that's the difference between a lodged complaint and a filed complaint. Lodged is someone calling saying "I've got a complaint" and filed is when we get that piece of paper back and they sign it or not sign it. We get it back and it goes to the Police Department.

MS. SHELTON – Okay.

CHAIRPERSON HOWE – Next speaker is Ted Levine. Three minutes, sir.

Ted Levine

I'm a member of the Riverside Coalition for Public Accountability. I wanted to make a couple brief comments about the By-laws and Policies & Procedures. One is that this Commission was created for a purpose that is separate from the purpose of the already existing ways in which complaints can be investigated. The Commission is supposed to be a voice of the public, in a sense, to bring a level of transparency that doesn't already exist. I think it's really important that that be reflected in by-laws and procedures. And I think that if you'll look at one of the by-laws, there's actually a contradiction I think in this respect VIII-2, "The hearing process shall be open to the public to the extent permitted by law and insofar as it doesn't conflict with state & federal law." Then compare that with Article 9, Section 1. The last part of it says "...other matters shall be kept confidential to the extent permitted by law." So in one section you're saying that things will be open to the maximum extent permitted by law and then another section saying that everything is going to be kept confidential to the extent permitted by law. I think that the Commission should do things confidentially - meaning outside the public eyes - to the extent that the law requires, and I think that needs to be clear in the by-laws.

COMMISSIONER BREWER – I don't see how that could be much clearer because confidential matters (?) deliberate on cases, which are kept confidential.

MR. LEVINE – Right, but when there's investigations of policy or investigations that don't involve Internal Affairs records...

COMMISSIONER GOLDWARE – But you're talking about two different areas here and that's why they're different. One you're talking about investigations and hearings, the other one you're talking about the general phraseology of confidentiality, so there is a difference, and I think the language is different. The only thing that I would tend to agree with you on is under Article VIII-2. I think it's repetitive. We're saying the same thing twice. Simply say that "the hearing process shall be open to the public to the extent permitted by law."

MR. LEVINE – Agree with you about that, that it's redundant. But in terms of just the substance, the more substantive point that I was making, I do think there's a contradiction between these two sections because one says that the hearing process itself shall be open – we're talking about investigations and hearings - and the other section says is more general about confidentiality in general. So in general, we're going to do things as secretly as the law will allow, secretly in the sense of outside the public eyes.

COMMISSIONER GOLDWARE – In all fairness, I think that's the way you're perceiving it. It clearly says "all personnel records, investigative reports, documents generated within the RPD, information relating to the deliberations of the CPRC and other matters shall be kept confidential to the extent permitted by law."

MR. LEVINE – I think "and other matters" opens it wide up.

COMMISSIONER GOLDWARE – Only to the extent permitted by law. If the other matters aren't covered by the confidentiality required by law, then they won't be kept confidential. They'll be open to the public.

MR. LEVINE – But what this is saying is they'll be kept confidential if the law allows them, not if the law requires, but if the law allows. In other words, it says will be kept confidential to the extent permitted by law.

COMMISSIONER REDSECKER – Do you have an example of something you're thinking of?

MR. LEVINE – Say the Police Department provides a proposed policy on the use of force to the Commission, and the Commission says, "well the law doesn't require us to disclose this, so we're not

going to disclose this cause we don't want to or because our by-laws say that we have to keep it confidential if the law allows us to."

COMMISSIONER HENDRICK – The example is something we would talk about in open meeting. What we're talking about in that section, when we're talking about - an allegation against a police officer, that's a personnel matter. It has to be heard in closed session. It can't be discussed. Policies aren't confidential.

MR. LEVINE – But the way this reads "all other matters shall be kept confidential to the extent permitted by law."

COMMISSIONER GOLDWARE – The example you used wouldn't fall under that description.

MR. LEVINE – The law wouldn't allow you to keep that confidential?

COMMISSIONER GOLDWARE – What is there that's confidential about a general policy that the Police Department is reviewing?

MR. LEVINE – We're disagreeing about the difference between permitted and required.

COMMISSIONER GOLDWARE – That's what I'm talking about. We're talking semantics here and not reality.

COMMISSIONER REDSECKER – The Police Department wouldn't keep their policies confidential. It's not – that book that Don Williams has over there – it's not a confidential book. Those are the policies of the Police Department and they're open to the public. That's why I asked you for an example or something that's bothering you so we could address that. Like in this case, specifically, if they wanted to talk to us in confidence about something that they wanted to change, I could see that being kept confidential, but the policy itself could not be kept confidential.

CHAIRPERSON HOWE – We've discussed this enough. Your time is up.

COMMISSIONER EGSON – Also, I don't think that we should be in dialog. I think that we should just be hearing what their comments are and we should not be making any reply.

CHAIRPERSON HOWE – Alright. Time's up, Mr. Levine. Next speaker on this subject – Linda Dunn.

Linda Dunn

I've been in this community for 30 years. I'm the director of Inland Agency, which is a community based, non-profit, private agency that provides health promotion, youth violence prevention and community strengthening programs. We have a program on the Eastside called People Reaching Out and it's been there eight years. They offer it out of the Cesar Chavez Center and I offer this information as an example for where complaints could be filed – and this is under Policies & Procedures 7A, and I understand that this section may have already been changed to some extent. But I want to give an example of how I think it would work well in the community and that is the following – I think it would be very helpful if community agencies - like People Reaching Out at the Chavez Center has a lot of traffic from the community - could have the blank forms, could offer those forms to be filled in by people who come in and understand the form will be there and wish to fill it in and, depending on the situation of the person who's filling it out, offer to take that form to the office. If that were to occur, it would be very helpful if we could get a receipt for a form that has been submitted in writing for either the form you filled out or the form for someone else. And also I think it's very important to have those forms in other languages, particularly in Spanish. Thank you.

Chani Beeman

As you've already noted, there are recommendations that were made in writing by the Riverside Coalition for Public Accountability. But I guess I sort of wanted to reinforce part of what Ted was trying to communicate and also what I saw here at the table is that this Commission somehow has sort of slipped into this role of final arbiter. Your role is to balance Police Department and community. And I think that's a mistaken assumption about what your role is. That role is actually carried out by the City Council and the City Manager. Your role is to interject sort of a public perspective in what is an allegation of police misconduct and make recommendations based on your investigations. You're community members and I think any time there's a perception, whether you agree with it or not as a commissioner, that there's a concern from the community, there should be some extra sensitivity to it and not just sort of getting blown off. And when I see that happening here – and I saw it here tonight – that's a real concern, because you're separating yourself from the community and the community is your power, because as soon as you separate yourself from the community and you see yourself as the final arbiter, and you don't have the support of the community, you're gone. It's as simple as that. And you really need to pay attention to that. And I think some of the language that was used in the Policies & Procedures - I appreciate how difficult it is to write a document like this and we are trying to provide constructive input – there are places where semantics make a difference, because they argue either for transparency or secrecy and you have to be sensitive to that. You don't see it right now because you're sitting in these seats and you're expecting us to trust you, so don't argue with us. I mean, they are semantics, but you have a perspective based on the chair that you're sitting in right now and if you want the community's support, you have to trust the community in return. So I do offer these written suggestions that we've made to the Commission. Any of our coalition members are willing to come to the subcommittee meetings, which aren't part of the Brown Act. We've not been invited, even though we are very interested in having some input into this process. It's kind of cumbersome to come to the meetings and see changes happening at the table and it might change what we have said. Why can't we just sit down and talk about this? We're supposed to be coming at this from the same sort of perspective and all I see is this commission further distancing itself from the community and it's very disturbing. Thank you.

Art Garcia

I want to thank the CPRC for taking the time to accept the public's input, especially the subcommittee that's reviewing these by-laws. I think the By-Laws & Policies are well written as amended, and I especially want to thank you for incorporating some changes that were suggested last month by members of the public as evident in this document, and that tells me you are listening to us. There's an item here... Let me address Mr. Levine's concern, Article 9, Section 1. I think it's a matter of intent. I don't really want to rehash this thing, but confidentiality, Pg. 10 of 12 in the By-Laws – "in other matters," I think there might be some concern of some of the public of what that means, so to alleviate that concern, I would suggest that you do one of two things – 1) insert "related matters" because then it relates to what's being discussed here, or say "in other matters thereof." Basically what it's saying is other matters pertaining to what we're talking about in terms of confidentiality. Then it doesn't open up for speculation what those other matters mean. 2) I'd like to address... I addressed this last month. Being a president of a local union and chairman of a commission and whatnot, it's just in my pores that – and I appreciate and agree with you wanting to conduct informal meetings and not have to follow Robert's Rule of Parliamentary Procedure – but I see possibly down the road a danger in regards to a chairman of a body being able to make or second a motion. I have no problem with the chairman voting – he's a commissioner as well and should have a say – but the chairman is supposed to be an impartial person that's supposed to interpret the appropriateness of motions made in the discussion, therefore be able to rule something out of order. What if the chairman made a motion – who's going to rule him out of order? Now the body could make a point of order saying, "I don't agree with that," but if the chairman makes a motion and it's an improper motion or it's out of order, I argue or ask, who would be able to rule the chairman out of order? Part of the chairman's function is to conduct the meetings in an orderly fashion and in fairness, and I'm not trying to take anything away from the chairman, but the chairman should be able to vote, but as far making or seconding motions, the chairman should be unbiased and impartial and should be out there to really get things moving

along and let the body vote on it. And that's my feeling and that's the only changes or additions to your By-Laws. Again, I think they're well written. They cover it all. This is the first time going at it and I commend you for your hard work. Thank you.

CHAIRPERSON HOWE – Item 6 open for public discussion.

Discuss and vote on whether or not the Commission should investigate instances where officers are killed or wounded by citizens.

Art Garcia – Item 6 came up last month as well at the CPRC meeting and it's of great concern from what I interpreted of the public, and to me as well. Internal Affairs would investigate this if a police officer was shot and killed, is what I guess the district attorney and attorney general and whoever else might be involved in the investigation. I ask you what happens in this scenario if you decide not to investigate officer shootings where the officer is the victim. Whether there's an exchange of gun fire, the officer and the citizen exchange gunfire, the citizen is hit, the Commission investigates that, but can't get into where the officer is shot? Or both parties are shot? So I ask, how that would work if you can't get into the officer being shot, investigate that? I believe that if the officer is shot, that the CPRC should be the representative of the community and look into it as well as the other bodies that would look into it. So I would be in favor of the CPRC having the jurisdiction. Now I don't know if it contradicts the City charter or anything else that there is, but I strongly believe that the CPRC should have the ability to look into that as well.

Ray Lewis

There was some discussion at the beginning of the meeting about items that were not on the agenda, and I beg your indulgence for just a moment to talk about an item not on the agenda and then I will go to Item 6. I assume that this document (referring to the City's quarterly publication *Riverside Report*) went to residents of this community and everyone here got a copy. It's notable because on Page 3, there's an article about the Police Chief's new advisory committee, which is interesting. There's nothing in this document about the Commission, not a word, not a telephone number.

CHAIRPERSON HOWE – That was in a previous issue.

MR. LEWIS – I know, but I say to the Commission that you've got to make it clear to Ron and John that you've got to be in every newsletter. And I would call your attention to the fact that all the community centers are listed and your documents have to be in all the community centers. Indeed, the Director and whoever lives in that ward needs to meet with those front-line city officials to talk about this Commission's activities. We cannot get this word out unless we use every vehicle to communicate with the residents of Riverside. This is a major oversight and I hope that you will take John and Ron aside and talk about it.

Item 6. There are those of you who know that many citizens in this community worked for a year and a half to get an ordinance which established this Commission. At no time, in the scores of meetings which took place over grievous matters of human loss, and millions of dollars of City income because of misfeasance or malfeasance in our Police Department, did I ever hear anyone say, "I'm less concerned about police officers than I am about residents." That never happened. The citizens who insisted on this ordinance were equally concerned about the women and men who staff our police force as they were about the citizens of the community, the residents of the community. And therefore, the notion that the language in the ordinance somehow said that this group which Chani has made clear and the mayor has (?) is the conscience of this community, is equally concerned about the women and men of the law enforcement group and the residents. The notion that somehow you're going to concern yourself, investigate, use resources, bring the intelligence of the community to bear on matters related to the shooting of a citizen, but not a police officer, is unreal. We were not, those of us who argued for this ordinance, anti-police. Quite the opposite. We want an efficient, effective

police force and that means it must observe the civil rights and civil liberties, as well as doing the many tasks that police units have to do. But we're certainly concerned about their safety. So we argue in the Coalition, you have no choice. That ordinance was clear. Maybe the language didn't come out, we now see, as clearly as it might have been, but the force of those arguments that led up to this and the many meetings by panels, by experts, by groups, and most importantly, by citizens, always made it clear – we were equally concerned with our law enforcement officers and our residents.

Ted Levine

I do think it's very important, and clearly, I think the language that's in your draft By-Laws is exactly the language that's in the ordinance; I think there's no two ways of reading this. I think it's clear that the Commission should investigate officer-involved incidents where it's an officer that's shot and not a member of the public. I think it's important because the work that police officers do is very dangerous and there could be policies and procedures involved that led to the death of an officer that should be reviewed and I think that's very important and the public has an interest in that. But I also think that it's important because those same policies and procedures that in one instance leads to the death of a police officer, could just as easily led to the death of a member of the public. If the person who fires at a police officer misses and the police officer fires back, or you can envision different situations where it could have been the other way. And if the same problem is in play in both cases, a policy which should be reviewed by the Commission, then I don't see any reason why and I think it would be a real problem for the Commission to say, "We're not going to investigate it this time because it was an officer," even though the same policy might tomorrow result in a member of the public being shot unnecessarily. I think that would be... I think that the Commission needs to investigate that to prevent, to take a proactive stance and to prevent future incidents from happening that need not happen. I think the only way to do that is to investigate very serious incidents where problematic policies and procedures might be in play. So that's the reason why I urge you to vote to investigate incidents involving the death of an officer.

CHAIRPERSON HOWE – Next speaker is Michael Dunn

Michael Dunn

Hello, my name is Michael Dunn. I'm also a member of the Riverside Coalition for Public Accountability. I spoke to you last month, I believe, on the same subject. And it just seems to me that you need to think about, you can't predict the future. You can't predict the kinds of situations which might arise. If you were sitting in Los Angeles and discussing this issue, you might have quite a different idea about what kinds of things might have led to the injury or death of a police officer that would undoubtedly require an investigation by a body such as this one. You can also think of scenarios where, as Ted said, policies and procedures of the Department need to be reviewed in a way that protects police officers in the future so we can learn from what happens. Now you could find that there's a particular incident where a police officer is injured or killed where, after a brief initial investigation, you find that there's no need for further investigation. But I think you need to reserve for yourselves the possibility that an investigation is needed. I don't see how you can escape that reasoning, and I think the ordinance is clear. Thank you.

CHAIRPERSON HOWE – Thank you. The next speaker is Mary Shelton.

Mary Shelton

I come from a little bit different viewpoint. I agree that the language in the ordinance is very clear up to a point. The only word I think is subject to interpretation is "actions," because there's many different ways that police officers get shot and my concern is that they're going to be separated into two different groups – those who were shot as a result of an action of a police officer, those who were shot without an action of a police officer. And to be honest, we don't know which group the Doug Jacobs' shooting falls under because we don't know much about it except what we read in the paper, which probably is about 5% truth at this point because not a lot of information was released. And the reason

I'm concerned about this is because, like, if you have a shooting, for example, where an officer was shot by another officer, say "friendly fire" incident, like what happened in Providence, Rhode Island, where you had the undercover black officer who was shot and killed by a white officer who mistook him for ... it was a racial profiling of the fatal kind. And, now, that officer died from being shot by another officer, which I guess wouldn't fall under this, but it's like, he still got shot, and it's something, I mean, that would definitely need to be investigated to determine why it happened and what needed to be changed to stop it from happening again. But then you have other shootings where it may not be clear, where an officer doesn't do anything and he's shot from behind or, he never even sees the shoot... how he gets shot. So it's like, how do you determine which shootings, I mean, how do you define this word "actions" where you determine what is an action? Is it like if an officer, you know, gets into a situation where there's forced used and it escalates and the officer gets shot. Is that different than a situation where he's going up and then somebody shoots him from behind? I mean, according to this ordinance, it's like you almost have to look into the investigation to find out if there are actions to determine whether you need to investigate it because of those actions that an officer does. I don't know if I'm making much sense, but I do think that it's probably for the benefit of an independent body to do an investigation of a police officer involved shooting, I mean, Internal Affairs... there's people involved that might be... I mean this is something that hurts officers when another officer gets shot and that pain doesn't go away for a long time. It's like it might influence the investigation. They might have to look into something that maybe... that happened, that may have contributed to it, that they might not feel like they can handle. You know, maybe there was a shooting where there was something that an officer did that maybe didn't directly contribute to it, but that they need to change so that it doesn't happen again.

Chani Beeman

I want to start by saying the way this is placed on the agenda is illegitimate. The ordinance is very clear about what it says and it says "any individual." It's not within the scope of this Commission to change what is in the ordinance, so I think that needs to be very clear. Now, if what we're talking about is whether or not this Commission is going to look into, or participate in any way, in the death of Detective Jacobs, I think there's a lot to be said. But this Commission can't change the ordinance. That is up to the City Council, okay? So, I caution you of wasting your time, because we'll challenge it. The ordinance is clear. The Commission's charge is clear. "Any individual" means any individual. You cannot segregate out police officers from community members. But I'm not going to waste the rest of my time because I think that what I have heard is this is the murder of a police officer, it's very clear. This community member shot and killed Detective Jacobs. Well, there are a lot of things that aren't real clear in the minds of the community. First of all, did you know Detective Jacobs was in plain clothes and had not yet identified himself as a police officer? This is a very confusing situation. Please do not mistake my comments as trying to legitimate in any way what happened to Detective Jacobs. My point is that there are details to this situation that could, if they are investigated, fully and completely, could prevent the loss of life, either a police officer or a community member. There were months of problems in that neighborhood, okay, and I have no doubt that Internal Affairs and our Police Department, especially when they lose a police officer, is going to do as thorough an investigation as they are capable of. But we all know that they don't have the same access to the community that a pastor or a minister does, or another community member. There is information out there that this Commission can tap into that Internal Affairs may not be able to get to or the district attorney or any other law enforcement agency. And this Commission seems to be saying, along with the Executive Director, along with our chief of police, "We're not interested in more information. We're not interested in what the Police Department can get," and I'm not satisfied with that. As a member of this community, I am outraged that one of the police officers in my Police Department was killed, and I want to make sure that all the police officers are safe, as safe as I expect our community members to be and the only way that we're going to be able to do that is as thorough an investigation as possible and I think it would be a disgrace that this Commission passed up this opportunity to provide what ever other information might be available out there. That's your job. That's your role. Please don't miss this opportunity. This ordinance is clear – any individual. We count police officers as individuals of our community and I have sat here and listened to a variety of people, yes, many of them from the

Coalition, but also other community members who took the time to come down here and let you know we count police officers as individuals in our community.

CHAIRPERSON HOWE – Thank you. Okay. At this time we're going to open it up for Commission members to discuss this before we take a vote on it and I'm going to go around the table here and (?) care to comment. Go ahead, and I'm going to start with Commissioner Hendrick.

Commissioner William Hendrick

My concern is that it is probably none of our business. I feel that would be stepping into what is a criminal matter, a criminal investigation. I think we would be interfering, and I personally feel we shouldn't even be voting on this. It's been place on the agenda, but I think it's completely out of our jurisdiction.

Commissioner Shermella Egson

I don't think this investigation of a death of a police officer is... it's not in our (?). We have the criminal justice system. We have the court system. We have detectives. In terms of trying to ascertain how the police officer could have been saved, we have training. As a matter of fact, the last officer, officer Jacobs, will probably be the subject of roll call training and academy training to make sure that what he did won't happen again. I think it's very internal. They have detectives to do that. I'm not going to talk to anybody, ring doorbells and asking folks out. If he was killed, I could be killed too. I think that isn't why we were selected to serve on this commission. The outcry from the community was that we were to investigate citizens who were unfairly treated by the police officers and I thought that was the outcry. Now the outcry is that we shouldn't miss this opportunity to protect to police officers too. Well, I think the officers are pretty well protected in terms of that. Having had experience, I know police officers who were killed or injured in the line of duty. Everything is done that can be done. I'm not comfortable being that invasive. I'm not comfortable hearing that we are rubber-stamped. I'm not comfortable hearing that we are mandated, this is our job. This isn't our job. This is... I'm not getting paid for this. I feel like we're being dictated to. Everybody here has intelligence enough, compassion enough, we have the tools to think and to reason and I think we're going to do that. I'm not real comfortable being in a damned-if-you-do – damned-if-you-don't position. I just don't think this is part of our purview.

Commissioner Nick Goldware

I'm going to be equally in opposition to investigation of police officer involved shootings that result in injuries to the officers. I don't have a problem with investigating or reviewing policies and procedures that would come out as a result of that kind of investigation, but I don't agree that ordinance sites the process that we are to be involved in investigating injuries or death to police officers. And like Commissioner Egson has just indicated, our position here, being appointed as commissioners, didn't automatically put us on a different side of the fence. We are also public citizens. We also devote our time and interest and that's what makes the world interesting, that people have different perspectives and viewpoints. And I will tell you candidly, I resent the connotation that we don't have the sensitivity or understanding, all of us, like the people in this room who are not on this commission, (?) their own personal time, their own personal efforts, to trying to do the community good as we see it. And although we don't agree on the way we see those viewpoints, we're all here volunteering our time to do that. Speaking to the point at hand, I don't believe it's the Commission's responsibility, in any way, shape, or form, to investigate or to be criminal investigators of police shootings where officers are injured or killed. But I do believe that, as a result of those kinds of incidents, as it would be on the other side where there are complaints filed because of misconduct against police, and in addition to the misconduct review that we would do that is part of our assignment, that we would be involved in policies and procedures that the Police Department could change or amend or adopt, that would give a broader protection to our citizens, as well as to our police officers. So in that regard, I'm very supportive of that process, but not an investigation, and I'm very supportive of the position that's been already noted by the two commissioners before me.

Commissioner Bob Garcia

I chose to differ with the commissioners. I was on the previous committee appointed by the mayor and it was always stated that the police are citizens also. So, with that being, I myself say, that they're also citizens who I believe we should be able to investigate as much as we're allowed to and look into the situation. So I choose to differ and go along with what the community is asking.

Written Statement by Commissioner Gloria Huerta – read by Chairperson Howe

CHAIRPERSON HOWE – Commissioner Huerta couldn't be here, however, she sent an e-mail to the office and I'm going to read that e-mail:

"I would like to get there in time to discuss the issue regarding whether or not we should be involved in review of officer-involved shootings. I do not believe that it is in our purview. It would be another matter if the Police Department or City Council requested that we be involved either as a full commission or as individual members or even an appointed subcommittee. I don't think we should be investigating the cases. Some people will say that the findings from officer-involved shootings where an officer is the victim may raise safety concerns that would need a policy change or identify training issues. This may be true, and as a commission, we could be involved in the policy review. I feel strongly that we are not charged with the investigation and review into the circumstances specific of officer-involved shootings where the on-duty officer is injured or killed."

Commissioner Jim Redsecker

I'll try to be as succinct as possible. I want to read you "I" out of the By-Laws, Policies & Procedures, Pg. 6 of 12: "Review and investigate the death of any individual arising out of, in connection with actions of a sworn police officer regardless of whether a complaint of such death has been filed." I think at this time, before any vote is taken on this, the Executive Director should go to Legal for guidance on whether we are empowered to do this kind of investigation or not. And that's all I have on it.

Commissioner Mike Gardner

This is an interesting one for me. Reading the language that Commissioner Redsecker just read, which is a direct quote out of the ordinance. I can read into that that we at least have the authority to conduct an investigation if we think it's an appropriate thing to do. I don't read it as mandatory that we have to. I see it as permissive. That's one issue. In my belief, this commission could, if it chose, thought it was appropriate, look into the death of a police officer in the line of duty if a police officer is shot. I think we do have that approval. Whether we should or not, is a whole separate question. I believe very strongly that we certainly should not, during the pendency of a legal proceeding, right now, and there is one in the case that we're all talking about even though most of us are not mentioning the name. There is a person who has been charged with a capital offense, he's going to go to court, and this commission has got no business messing around in the legal system until the legal system has run its course and done whatever it is it's going to do. If, at that point, when we will have more information because the legal proceeding is a public proceeding, if at that point, we think there is some value at looking at it, fine. Let's ask the Executive Director to prepare us a report and we'll look at it, but not now. Similarly, I don't think we should get into the criminal aspect of any other police officer's activity. We look at did they follow procedures, policies & procedures, guidelines... If it appears that an officer has violated a law or if a complaint is filed that says an officer has violated a law, that is specifically investigated by the appropriate agency. Typically, it would be the district attorney's office. If, for some reason, the district attorney recuses themselves, it would buck-up to the state level. But that is not what this commission does; we do not do criminal investigations. We don't have the training, I don't believe we have the authority and we would stand a good chance of confusing and potentially interfering with the criminal justice system as it is set up by the laws of the State of California and the United States.

Commissioner Jack Brewer

I don't quite understand what we're being asked to investigate other than the policies and procedures in that area. This body is not qualified to go out and do a criminal investigation on that shooting and

should not interfere with the people that are doing this investigation. I'm quite familiar with these investigations and there are several different (?) conducting. There's Internal Affairs, the shooting team, the district attorney, there's a lot of people (?). When it's all over with, then fine. Look at the policies and procedures in general. This is a very, very recent event here where officer, Detective Jacobs was shot. One of the examples brought up by the audience was officers shooting each other or getting in a shoot-out. Certainly, that would be an officer-involved shooting that would be looked at. There would be no question about that. It would be policies and procedures right off the top. Again, we wouldn't look at the criminal part of it, that's not our job. As far as investigating shootings that we're talking about here tonight, whether the officer is the individual that's been hurt or it's the officer shooting into a house, I don't think we should do that.

Chairperson Howe

The shooting of an officer, I do not believe, is under our scope. Each police department has their own critical report investigation that you're going to have to do when something serious like this takes place. And from that, they can derive what caused it, set up training procedures, and things like that. Also, there's an accurate incident report that's done on the whole scenario of what happened. I can remember May 9, 1980, the Norco bank robbery. Those of you who were around know what took place there. Deputy James Evans from Riverside Sheriff's Department was killed in that particular incident and about a month or so later; I was assigned to go back to the FBI Academy at Quantico, Virginia, for four weeks of training. When they found out I was with the Corona Police Department, and this incident had happened out there, which was known all over the nation, they asked me to get all the information I could get on that, newspaper articles, police reports, anything, which I sent to Washington DC, turned it over to the FBI. They made a scenario out of that to train police officers all over the country on how to handle situations that come up like this. And that is what is done whenever an officer is shot. They go over and over and over it again. They train as to how that officer got shot to try to prevent something like that happening again. So I don't see any need for us to get involved.

CHAIRPERSON HOWE – Okay. At this time, we had Commissioner Redsecker make a statement about this going to Legal. Do you want to make that in the form of a motion?

COMMISSIONER REDSECKER – I'd like to move that the question be moved to the Legal Department to find out whether we have the authority to do that and before anybody gets involved further, I'd like to have a little discussion on it and say there have been two cases, the Tyisha Miller case and the Doug Jacobs case.

COMMISSIONER GOLDWARE – Excuse me, can I interrupt for a minute?

COMMISSIONER REDSECKER – Not until I...

COMMISSIONER GOLDWARE - You've made a motion and nobody's seconded it yet so there shouldn't be a discussion.

CHAIRPERSON HOWE – Do you want to withdraw your motion?

COMMISSIONER REDSECKER – I'll withdraw the motion.

CHAIRPERSON HOWE – You want to open it for discussion?

COMMISSIONER REDSECKER – Yes, I want to get on with my discussion. The Tyisha Miller case, if that young lady had shot a police officer, there would have been a full investigation, right? Now, suppose Doug Jacobs had shot the perp who shot him. Would we now not be involved in the investigation? Suppose his family had filed a complaint. Would we not be involved? I think we would. So I'm finished with my part of the discussion on that. I'd like to have some legal guidance and I make the motion to ask legal counsel what they think of the ordinance and where we play in it.

CHAIRPERSON HOWE – There's a motion on the floor. Is there a second?

COMMISSIONER GARCIA – I'll second.

CHAIRPERSON HOWE – Any further discussion?

COMMISSIONER BREWER - Executive Director, I thought you'd already discussed this with the City Attorney.

EXEC. DIR. WILLIAMS – I've not discussed it. I think informally we have, but nothing formal. What I can also do is maybe next time have the City Attorney come here and discuss it and get a formal legal opinion.

CHAIRPERSON HOWE – Why don't we vote on it, if the commissioners want it to go Legal. If not, then there's no need for it.

COMMISSIONER GARDNER – Can I just make a quick comment – with respect to the City Attorney, or for that matter, any other attorney, their opinion is just the opinion of that one trained individual and if you talk to another trained individual you'll probably get a somewhat different, if not a 180 degree different opinion and, as a result, I don't put all that much faith in their interpretation. I think it's up to us to decide. We can certainly ask for guidance from the City Attorney, but I think we should take it as guidance, not as this is what you may and may not do. I think we need to take it on ourselves to decide whether we think it's in our purview or not. Whatever position we take, if somebody doesn't like it, they can challenge us in court and try to get it changed.

COMMISSIONER EGSON – I also would like to bring up the point that when we were going through training, when we were interviewed, and when we were selected to serve here, I was never told that part of my duties would be to investigate police officer shootings. I was only given information about citizens. I was given training about citizen's complaints. I was given training about the hierarchy of the Police Department. I was given all of that, but never once did I receive training for how to handle a police officer killed or injured in the line of duty. So if that was part of what we were empowered to do, then why just coming up now?

COMMISSIONER GOLDWARE – I have a comment, but I want a clarification on the motion. You want something clarified with the attorney. What specifically are you asking to be clarified?

COMMISSIONER REDSECKER – Whether its in our purview to go on and review these types of cases – shootings of police officers, and how that might differ from Item I on Page 6.

COMMISSIONER GOLDWARE – My comment then, based upon that is, I don't believe it's the purview of this Commission to do any, regardless of whether it's police or citizen, criminal investigation. I think that's the issue that we're talking about or at least that's the overview of what I'm hearing here. I think our primary function through the ordinance is to be involved in citizen complaint and citizen concern with police accountability and behavior, and also policies and procedures that affect the community, vis-à-vis the Police Department. And I don't see... the investigations that we do are not criminal in nature. They're investigations of behavior, attitude and the policies and procedures that we link to those to make recommendations or to make changes or to address are validated cases where officers have not conducted themselves properly. And most of what I've heard in this conversation relates to, at least the way I'm perceiving this and maybe I'm reading this wrong, is like criminal investigation.

COMMISSIONER REDSECKER – I have (?) to criminal.

COMMISSIONER GOLDWARE – But that's what I'm hearing.

COMMISSIONER REDSECKER – And that's why I need more of a clarification than us yard birds sitting around here talking about things that have a legal bearing when we could go to people who have a whole lot better handle on the legal aspect, and I think that's very important and that's why I made the motion.

COMMISSIONER BREWER – Everybody keeps talking about investigations.

COMMISSIONER EGSON – What kind of investigation?

COMMISSIONER HENDRICK – We're not here to investigate, we're here to determine whether or not there's been a violation of policy. When someone shoots a police officer, that's a criminal act, and it's completely outside our jurisdiction. I ask that we call for a question on his motion.

CHAIRPERSON HOWE – Okay, call for a question. Everyone ready to vote for this to be referred to the City Attorney. All those that favor this motion to be referred to the City Attorney for clarification raise your hands. Two people, Commissioners Redsecker and Garcia. All those opposed? Okay – motion defeated. (2 for, 6 against)

COMMISSIONER EGSON – That's just to Legal. Now we have to approve, we have to have another motion.

COMMISSIONER HENDRICK – Well, do we have to have a motion? It's on the agenda for discussion. I don't know that we have to take any action at all. My recommendation is that we take no action.

COMMISSIONER EGSON – I second that.

COMMISSIONER HENDRICK – I don't feel we need to take action.

COMMISSIONER GARCIA – If it's an item on the agenda, you can take action.

Commissioner Hendrick – We can if we choose to, but I feel should not.

COMMISSIONER EGSON – Then make a motion.

COMMISSIONER HENDRICK – You want me to make a motion?

COMMISSIONER EGSON – Sure. Make a motion so we can write it down.

COMMISSIONER HENDRICK – Is anyone going to make a motion?

COMMISSIONER EGSON – Me.

COMMISSIONER HENDRICK – I'll second it.

CHAIRPERSON HOWE – Discussion?

COMMISSIONER GOLDWARE – The motion is to not act upon an agenda item.

COMMISSIONER HENDRICK – Agenda item 6.

CHAIRPERSON HOWE – All those in favor? Six. Opposed same sign? One, Commissioner Garcia.

COMMISSIONER REDSECKER – Abstain.

CHAIRPERSON HOWE – And one abstention. (6 ayes, 1 no, 1 abstention)

CHAIRPERSON HOWE – Okay. Move to Item 7.

Discuss and vote on the following recommendations to RPD Policy and Procedures

- Policy 4.14:
Complete revision and include in it explicit instructions on what officers should do when a recovered stolen vehicle is judged to be unsafe to drive.
- Policy 4.12:
Review criteria for assigning Internal Affairs investigations outside that unit, and include in this policy language stating that supervisors directly involved in the actions under question not be assigned as the investigator.
- Policy 4.12:
All supervisors who could possibly conduct an administrative investigation review Subsection D5 of this policy regarding the timeliness of administrative investigations.
- Policy 4.15:
Have officers write reports when they make calls for service where there are allegations of child abuse and/or neglect, even when there is no evidence of a crime. In those instances the officers should note what he/she did and observed in making their determination.

(quiet, unintelligible discussion)

COMMISSIONER HENDRICK – I'm confused about what we're doing here.

CHAIRPERSON HOWE – Do you want to clarify it Don?

EXEC. DIR. WILLIAMS – Yeah. We had policy recommendations as far as the deliberations. Policy deliberations should be done in public session. So basically, this is... I think you got copies, correct, of the proposed... This is RPD policy...

COMMISSIONER GOLDWARE – Jack...and Bob just pointed this out, which we're all aware of - these recommendations came out of cases, okay. In the future, would it not be beneficial to at least show the case number?

EXEC. DIR. WILLIAMS – We thought about that, but that goes back to the tying, potentially, of officers... We're trying to separate these cases, these recommendations from specific cases.

COMMISSIONER GOLDWARE – But you're not showing the case, you're just reflecting the number, because we want to have the ability a year from now – none of us are going to remember – we're going to want to know "why did we make this recommendation?" And if we've got a case reference, we can go back to that case number and say, "This is why we did it." Because we've got, and one of these is to the point – RPD's been working on one of these policies for what, three years, five years, six years? So, I don't know that it necessarily is absolutely critical, but it might be helpful from a reference point down the road.

EXEC. DIR. WILLIAMS – Yeah, we can insert our case number. We can do that in the future.

COMMISSIONER HENDRICK – So what we're doing is deciding whether or not we want to recommend the policy recommendations that we have here?

EXEC. DIR. WILLIAMS – Right. Or you can change it up.

COMMISSIONER GOLDWARE – You've given this information out to us. We've all had a chance to read it. We know because it's fairly fresh what these cases are. So, unless there's specific questions, it would seem to me that either a commissioner can say, "Wait, I want to discuss it," or we can vote on the issue based on the written recommendation that we've had a chance to review.

COMMISSIONER GARDNER – The pages that have been handed to us as recommendations that we would forward to the Police Department.

CHAIRPERSON HOWE – Are you going to make that in the form of a motion?

COMMISSIONER GARDNER - That is a motion.

COMMISSIONER HENDRICK/COMMISSIONER EGSON – Second.

CHAIRPERSON HOWE – Any discussion? Okay, all those in favor say "aye." Opposed?

COMMISSIONER GOLDWARE – I have a question. What's the procedure on this? These are our first, if I'm correct, these are our first recommendations to ask the Department to amend their policies and procedures.

EXEC. DIR. WILLIAMS – Correct.

COMMISSIONER GOLDWARE – Tell me what the procedure is.

EXEC. DIR. WILLIAMS – Okay. I get the signature from the chairman. I make copies. I send the original up to the City Manager and send a copy over to the Chief of Police, and I send a cover letter with them asking that they respond back within 60 days, 30 days, something like that. If you all have a preference, I'll do that. But some sort of response from them, whether its jump in a lake or whatever, we'll look at it. But if there's going to be a change in policy, I'd like to get a copy of that change. Obviously we'll get policies and procedures we're going to keep updating and this type of thing.

COMMISSIONER GOLDWARE – I think this goes back to public accountability.

EXEC. DIR. WILLIAMS – Absolutely.

COMMISSIONER GOLDWARE – And I would give reasonable time, but not extend that, and each recommendation might determine the time frame, but in these particular items, I think that a 30-day time factor is very fair. It's not our fault it took them six years on one provision.

EXEC. DIR. WILLIAMS – I'll put it in the written response.

COMMISSIONER GOLDWARE – If nothing else, maybe it'll let them know that we're at least watching them.

COMMISSIONER HENDRICK – And I think if they don't come back with... are not willing to make the change, then I think somebody from their Department needs to come over and talk to us about why not.

COMMISSIONER GOLDWARE – Maybe we’re missing something that’s important to them that we don’t see.

Closed Session

Chairperson Howe stated that the Commission would now go into closed session to review the case(s) noted on the agenda. At 8:07 p.m., the Commissioners and Executive Director recessed to the 7th Floor Conference Room for a closed session pursuant to Government Code §54956.9 to discuss the following case(s) involving PUBLIC EMPLOYEE PERSONNEL MATTERS:

CPRC CASE NO.

01-034

IA CASE NO.

PC-01-064-193

The Commission adjourned at 8:25 p.m.

Respectfully submitted,

PHOEBE SHERRON
Administrative Clerk